

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEPHAN J. MCANALLY,)	Civil Action
)	No. 14-cv-00141
Petitioner,)	
)	
v.)	
)	
)	
STATE OF PENNSYLVANIA and)	
PA STATE ATTORNEY GENERAL,)	
)	
Respondents)	

O R D E R

NOW, this 19th day of May, 2015, upon consideration of the following documents:

- (1) Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, which petition was filed by petitioner Stephan J. McAnally pro se on December 23, 2013;¹
- (2) Answer in Opposition to Petition for Habeas Corpus Relief and Memorandum of Law in Support Thereof, which answer and memorandum was filed April 2, 2014; and
- (3) Report and Recommendation of United States Magistrate Judge Lynne A. Sitarski dated and filed June 30, 2014;

it appearing that as of the date of this Order no objections have been filed to the Report and Recommendation of Magistrate Judge Sitarski; it further appearing after review of this matter that

¹ Mr. McAnally's original petition for writ of habeas corpus was filed on December 30, 2013 in the United States District Court for the Middle District of Pennsylvania. However, the petition itself indicates that it was signed by petitioner on December 23, 2013 and placed in the prison mailing system that same date. Thus, giving petitioner the benefit of the prison mailbox rule, (See Burns v. Morton, 134 F.3d 109 (3d Cir. 1998) and Rule 3(d) of the Rules Governing Section 2254 Cases in the United States District Courts), I consider December 23, 2013 the filing date of Mr. McAnally's original petition.

Magistrate Judge Sitarski's Report and Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Sitarski's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that the petition for habeas corpus relief is dismissed and without an evidentiary hearing.

IT IS FURTHER ORDERED that because petitioner has not met statutory requirements to have his case heard, and no reasonable jurist could find this ruling debatable, and because petitioner fails to demonstrate denial of a constitutional right, a certificate of appealability is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER

James Knoll Gardner

United States District Judge